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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/059,274	01/31/2002	George D. Escobar	06975-167001	7840

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EXAMINER
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SALTARELLI, DOMINIC D

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 08/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/059,274	<b>Applicant(s)</b> ESCOBAR ET AL.	
	<b>Examiner</b> Dominic D. Saltarelli	<b>Art Unit</b> 2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-29 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Hendricks et al. (5,600,364) [Hendricks].

Regarding claims 1, 7, 13, and 21, Hendricks discloses a method for providing content to a viewer, the method comprising receiving a signal from a set top box, determining a viewer command associated with the signal, analyzing the viewer command to determine content of potential interest to the viewer, and assembling the determined content for presentation to the viewer (user interactions are monitored via upstream signals by a network controller which packages and delivers content such as programs and advertisements according to the user selections, col. 10 line 58 - col. 11 line 25; col. 15, lines 23-67; col. 16, lines 44-59; col. 30, lines 35-49; and col. 32, lines 26-33).

Regarding claims 2, 8, 14, and 22, Hendricks discloses the method and system of claims 1, 7, 13, and 21, and further discloses generating a trigger to indicate that the assembled content is available for viewing and sending the trigger to the set top box (one type of trigger would be changes to the menus

which subscribers use to select content, indicating new content availability, col. 15, lines 55-67, and other types of triggers would be those used to control the presentation of interactive content, indicating the availability of interactive choices to users, col. 11, lines 10-25, and yet other triggers would indicate availability of special features or reprogramming options, col. 17, lines 6-21), and displaying an indication that the content is available when the trigger is activated (such as a menu allowing a user to select an advertisement for viewing, col. 16, col. 22-24).

Regarding claims 3, 9, 15, and 17, Hendricks discloses the method and system of claims 2, 8, and 14, and further discloses receiving a signal from the set top box to access the content, sending the content to the set top box, and displaying the content (col. 11, lines 10-25 and col. 16, lines 22-24).

Regarding claims 4, 10, and 18, Hendricks discloses the method and system of claims 2, 8, and 14, wherein the trigger is activated in response to viewer interaction with the set top box (user selection of content from the menu, col. 13 line 15 - col. 14 line 40).

Regarding claims 5, 11, and 19, Hendricks discloses the method and system of claims 1, 7, and 13, wherein viewer commands are analyzed to determine the content (col. 11, lines 7-9).

Regarding claims 6, 12, and 20, Hendricks discloses the method and system of claims 4, 11, and 19, wherein viewer commands of more than one viewer are analyzed to determine the content (col. 30, lines 35-49).

Regarding claim 16, Hendricks discloses the method of claim 15, and further discloses accessing a memory of the set top box to retrieve the content for display (set top memory must be accessed in order to identify and retrieve content selected from a displayed menu, col. 12, lines 18-64).

Regarding claim 23, Hendricks discloses the system of claim 22, wherein the processor is configured to process a signal from viewer command input to access the content and to send the content to the display interface for display (col. 12, lines 50-64).

Regarding claim 24, Hendricks discloses the system of claim 23, and further discloses a memory configured to store the content (col. 8, lines 39-43 and col. 10, lines 44-47), wherein the processor is configured to access the memory to retrieve the content (col. 12, lines 50-64).

Regarding claim 25, Hendricks discloses the system of claim 23, and further discloses the processor is configured to send a signal to request the content (col. 13 line 15 - col. 14 line 40 and col. 16, lines 22-24).

Regarding claim 26, Hendricks discloses the system of claim 22, wherein the trigger is activated in response to viewer interaction with the set top box (user selection of content from the menu, col. 13 line 15 - col. 14 line 40).

Regarding claim 27, Hendricks discloses the system of claim 21, wherein viewer commands are analyzed to determine the content (col. 11, lines 7-9).

Regarding claim 28, Hendricks discloses the system of claim 27, wherein viewer commands of more than one viewer are analyzed to determine the content (col. 30, lines 35-49).

Regarding claim 29, Hendricks discloses the system of claim 21, wherein the system comprises a set top box (col. 11, lines 45-59).

Regarding claim 32, Hendricks a system comprising an input configured to receive a viewer command (col. 10, lines 15-25 and col. 10 line 58 – col. 11 line 25), a command interface configured to send the viewer command to be analyzed (col. 17, lines 48-61 and col. 22, lines 13-18), a content interface configured to received content (col. 8, lines 26-53), a memory configured to store the content (col. 8, lines 39-43), and a processor configured to store the content received by the content interface onto the memory (an inherent feature, as the

selective storage and control of digital data is under the control of a programmed system processor), wherein the content is selected based on analysis of the viewer command to determine content of potential interest to the viewer (col. 10 line 34 – col. 11 line 44).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 30, 31, 33, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hendricks.

Regarding claims 30, 31, 33, and 34, Hendricks discloses the system of claims 24 and 32, but fails to disclose the memory is a hard drive.

The examiner takes official notice that it is notoriously well known in the art to utilize hard drives to store large amounts of digital data.

It would have been obvious at the time to a person of ordinary skill in the art to modify the system of Hendricks to utilize a hard drive for memory.

### ***Conclusion***

5. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of

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mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

### **Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

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P.O. Box 1450  
Alexandria, VA 22313-1450

on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

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### **Certificate of Transmission**

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. ( ) \_\_\_\_\_ - \_\_\_\_\_ on \_\_\_\_\_.  
(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Signature: \_\_\_\_\_

Registration Number: \_\_\_\_\_

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.



Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic D. Saltarelli whose telephone number is (571) 272-7302. The examiner can normally be reached on Monday - Friday 7:00am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DS



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